

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

RANDOLPH S. TANGLE,)	
Plaintiff,)	
)	
v.)	C.A. No. 05-114 ERIE
)	1:05-cv-00114-SJM-SPB
CITY OF ERIE, et al.,)	
Defendants)	

MOTION TO DISMISS PURSUANT TO FED.R.CIV.P. 12(b)(6)

AND NOW, comes the Defendants, Patrick L. Fetzner, Clerk of Court, and Sharon Winkler, Clerk of Court office employee, and move this Honorable Court pursuant to the Federal Rules of Civil Procedure, Rule 12(b)(6) as follows:

1. To dismiss Plaintiff's action because the complaint fails to state a claim against defendants upon which relief can be granted as Plaintiff's claims are barred by the doctrines of judicial immunity, res judicata and collateral estoppel, the complaint fails to state a viable claim pursuant to 42 U.S.C. Sect. 1983, upon which relief can be granted and is barred by the statute of limitations.

WHEREFORE, Defendants, Patrick L. Fetzner and Sharon Winkler, request that this Honorable Court grant their Motion to Dismiss pursuant to Fed.R.Civ.P. 12(b)(6).

Respectfully submitted,

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Patrick L. Fetzner, Sharon Winkler

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within Motion to Dismiss and Memorandum of Law in support thereof were mailed to the following listed below this 26th day of August, 2005, by United States First Class mail, postage pre-paid.

Randolph S. Tangle
United States Marshals Service
John Onorato, Esquire, County Solicitor
Matthew McLaughlin, Esquire, Asst. County Solicitor
Heather Purcell, Esquire, Court Solicitor

By: s/Kenneth J. Gamble
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